



1995 SENATE BILL 275

July 26, 1995 – Introduced by Senator HUELSMAN, cosponsored by Representative R. YOUNG. Referred to Committee on Judiciary.

1 **AN ACT** *to create* 895.76 and 941.40 of the statutes; **relating to:** interference
2 with access to or use of a medical facility, civil actions for trespass to and
3 interference with access to medical facilities and providing penalties.

Analysis by the Legislative Reference Bureau

Under current law, any person who intentionally enters a medical facility without lawful consent and under circumstances tending to cause a disturbance may, upon conviction, be fined not more than \$1,000 or imprisoned for not more than 90 days or both. This bill creates the same penalties for the first offense related to limiting a person's access to or use of a medical facility. A 2nd or subsequent conviction results in a penalty of not more than \$10,000 or imprisonment for not more than 9 months or both. The acts covered are physically obstructing or impeding a person from entering or leaving a medical facility, using force or a threat of force to interfere with medical services at a medical facility or rendering or attempting to render a medical facility unusable. The bill provides exceptions for peace officers, chief executive officers of medical facilities and persons directed by those chief executive officers.

The bill also allows a person or his or her authorized representative to bring a civil action for any injury, death, emotional distress or damage to or loss of the person's property as a result of the offense of limiting a person's access to or use of a medical facility or as a result of the offense of criminal trespass to a medical facility. In addition to the right to an injunction to stop further offenses from occurring, the person may recover the actual damages incurred as a result of the offense, punitive damages and the costs of the investigation and litigation, including reasonable attorney fees.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 895.76 of the statutes is created to read:

2 **895.76 Physical injury, emotional distress, loss or damage suffered by**
3 **users of medical facilities.** (1) If a person suffers physical injury, death,
4 emotional distress or damage to or loss of his or her property as a result of conduct
5 which is prohibited under s. 941.40 or 943.145, the person, or his or her authorized
6 representative to commence an action on behalf of the person, may commence a civil
7 action to enjoin further or continuing violations or to recover actual damages
8 sustained as a result of a violation, or both.

9 (2) The burden of proof in a civil action under sub. (1) rests with the plaintiff
10 to prove his or her case by a preponderance of the credible evidence.

11 (3) If the plaintiff prevails in a civil action for damages under sub. (1), he or she
12 may recover special and general damages, including damages for emotional distress;
13 punitive damages; and costs of the investigation and litigation which were
14 reasonably incurred, including all reasonable attorney fees, notwithstanding s.
15 814.04 (1).

16 (4) A person may bring a civil action under sub. (1) regardless of whether there
17 has been a criminal action related to the physical injury, death, emotional distress,
18 loss or damage under sub. (1) and regardless of the outcome of any such criminal
19 action.

20 (5) This section does not limit the right of a person to recover from any parent
21 or parents under s. 895.035.

22 **SECTION 2.** 941.40 of the statutes is created to read:

23 **941.40 Interference with the access to or use of a medical facility.** (1)

24 In this section "medical facility" has the meaning given in s. 943.145 (1).

